

### **REMARKS**

Applicants gratefully acknowledge the Examiner's indication that claims 2-3, 5, 8-9, 11, 13-17, 19-21, 32, 35-36, 38, 42-45, 47, 51, 53-55, and 57-60 appear to be allowable if rewritten in independent form (item 12 of the Office Action of 8/15/08). With this amendment, claim 14 has been combined with claim 1 and claim 33 has been combined with claim 48. Accordingly, Applicants respectfully submit that the application is now in condition for allowance. The grounds of rejection are addressed below.

#### **Rejection under 35 U.S.C. § 112, second paragraph**

Claims 23-30 and 56 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 23 and 56 are rejected as indefinite due to the use of trademarks. With this amendment, claims 23 and 56 has been canceled.

Claims 24-25 are rejected for lacking a nexus between preamble and claim steps. Claims 24-25 have been amended to provide a nexus between the preamble and the recited steps. Reconsideration is respectfully requested.

In view of Applicants' cancellation of claims 23 and 56 and amendment of claims 24-25, withdrawal of the rejection is respectfully requested.

#### **Rejections under 35 U.S.C. § 102(b) & 103(a)**

Claims 1, 4, 12, 18, 22, 33, 37, 39, 46, and 52 are rejected under 35 U.S.C. § 102 (b) as anticipated by Naegle, et al. (US 6,428,962).

Claims 6-7 and 40-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Naegle, et al. (US 6428962) in view of Nierman (US 6793892).

Claims 24, 31, and 61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Naegle, et al. (US 6428962) in view of Resnick, et al. (US 5527669).

The above grounds of rejection are addressed by amendment of claim 1 to include the limitations of claim 14 and the amendment of claim 33 to include the limitations of claim 48.

Withdrawal of the rejections is respectfully requested.

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### **Claim objections**

Claims 48-50 are objected to as depending from a canceled claim. With this amendment, claim 48 is canceled and claims 49-50 are amended. Withdrawal of the objection is respectfully requested.

### **No Disclaimers or Disavowals**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

### **Co-Pending Applications of Assignee**

Applicant wishes to draw the Examiner's attention to the following co-pending application of the present application's assignee. The application listed below is a continuation-in-part of the present application.

<b>Serial Number</b>	<b>Title</b>	<b>Filed</b>
12/253539	DEVICE, KIT AND METHOD FOR PULSING BIOLOGICAL SAMPLES WITH AN AGENT AND STABILISING THE SAMPLE SO PULSED	17-Oct-2008

### **CONCLUSION**

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the

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application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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